

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK**

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**KENLEY POWELL,**

**Plaintiff,**

**- v -**

**Civ. No. 1:08-CV-344  
(TJM/RFT)**

**JULIA HARRIS,**

**Defendant.**

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**THOMAS J. McAVOY,  
Senior United States District Judge**

**DECISION & ORDER**

In a Report-Recommendation and Order dated May 14, 2008, the Hon. Randolph F. Treece, United States Magistrate Judge, recommended that the action be dismissed due to Plaintiff's failure to comply with Federal Rules of Civil Procedure 8 and 10.

Magistrate Judge Treece also recommended that

in light of Plaintiff's *pro se* status, prior to any dismissal, Plaintiff be afforded an opportunity to amend his Complaint consistent with the instructions [set forth in the Report-Recommendation and Order]. In any amended complaint that Plaintiff files, he must comply with Rules 8 and 10 of the Federal Rules of Civil Procedure and any other terms the Court deems proper. Plaintiff must also allege claims of misconduct or wrongdoing against Defendants that he has a legal right to pursue and over which this Court has jurisdiction.

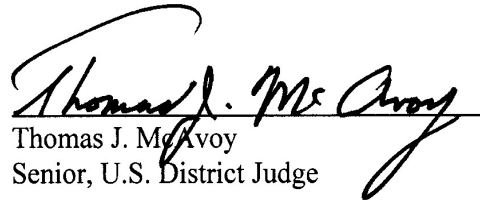
Plaintiff has filed a proposed amended complaint that comports with Federal Rules of Civil Procedure 8 and 10, that asserts claims pursuant to 42 U.S.C. § 1983, and that complies with the instructions set forth in the Report-Recommendation and Order.

Therefore, the Court adopts Magistrate Judge's recommendation, and the

proposed amended complaint shall be filled in the place of, and shall supersede, the original complaint.

**IT IS SO ORDERED**

DATED: September 15, 2008

  
Thomas J. McAvoy  
Senior, U.S. District Judge